



Paper No. 10

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APR 02 2003

In re Application of
Compaan, et al.
Application No. 09/815,958
Filed: March 23, 2001
Attorney Docket No. 1-22335

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed March 28, 2003. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on September 20, 2002, after no reply was received to the non-final Office action, June 19, 2002, which set a three-month shortened statutory period for reply. Petitioner filed the instant petition on March 28, 2003, and therein argued that the Office action of June 19, 2002, was never received. In support of the instant petition, petitioner filed: 1) a recitation of facts as offered by Ted Gillespie, and 2) a copy of the results of a docket search conducted for the relevant period.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has meet the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.


Petitioner is advised that there is no petition fee associated with a petition to withdraw a holding of abandonment filed under 37 CFR § 1.181(a). Accordingly, the petition fee remitted on March 10, 2003, in the amount of \$55.00 will be refunded to petitioner and credited to Deposit Account 13-0005.

Petitioner is advised that the above-cited application will be forwarded to Technology Center 2800 for review of the amendment filed March 28, 2003.

In re Application of Compaan, et al.
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Telephone inquiries concerning this decision may be directed to the undersigned, at (703) 305-0010.

A handwritten signature in cursive script, reading "Kenya A. McLaughlin".

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions